

A circular black and white stamp. The text "OIPE IAP43" is curved along the top inner edge. The date "JUL 27 2006" is stamped in the center. The text "PATENT & TRADEMARK OFFICE" is curved along the bottom inner edge.

Confirmation No.: 2781

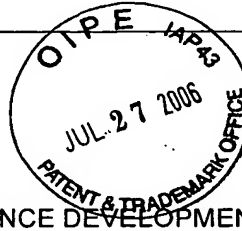
P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION
OVER A PRIOR PATENT**

Docket Number (Optional)

1021565-000155

In re Patent Application of: Herman Van Mellaert et al.
Application No.: 10/809,953
Filed: March 26, 2004
For: PREVENTION OF BT RESISTANCE DEVELOPMENT



The owner*, Bayer BioScience N.V., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 and 173 as presently shortened by any terminal disclaimer, of prior Patent Nos. 5,866,784, 6,172,281 and 6,855,873. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.


In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 and 173 of the prior patents, as presently shortened by any terminal disclaimer, in the event that it later: Expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.



Signature
Christopher L. North, Reg. No. 50,433

Typed or printed name
703 836 6620

Telephone Number

July 27, 2006

Date

- ☒ Terminal disclaimer fee under 37 C.F.R. § 1.20(d) is included.

*Statement under 37 C.F.R. § 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

07/28/2006 SDEMB081 00000094 10009953
02 FC:1814

130.00 0P